

[REPORTED.]

## THIRD JUDICIAL DISTRICT COURT.

WEDNESDAY, Sept. 14, 1899, 10 a.m.

Court met pursuant to adjournment, in Sec. Hartnett's office.

The Social Hall having been obtained to hold the court in, a recess was taken till 12 o'clock, at which hour the court resumed its session in the basement of said Hall.

Mr. Wm. Bell was excused from further service on the grand jury, after which the court appointed Daniel H. Wells foreman.

After administering the usual oath to the foreman, and then the other grand jurors by fours, his honor thus addressed them:

## GENTLEMEN OF THE GRAND JURY:—

You will remember when you reported to me that there was no further business before you, that I dismissed you, subject to be recalled. You are now recalled by a motion of the District Attorney, he conceiving that there was a necessity for convening the grand jury again, and thus you are here. Twenty four usually constitute a grand jury, but not more than twenty three can be impaneled, for the reason that no number under twelve can make a presentment.

I endeavored, when the court was in session before, to call your attention to subjects that were of importance to be investigated—to subjects which it is unnecessary for me to charge you further upon, or upon the duties which you owe to yourselves, and to the community, charged as grand jurors for the third judicial district; charged to bring before this court all such parties as the evidence before you shall indicate ought to be brought to trial.

At that sitting of the court you were specially charged to inquire into criminal offenses committed in this district; but some parties seem to misunderstand the intention of this court. Nothing can be further from my intention than to wrest from a magistrate any of his rights, and nothing can be further from my intention than to interfere with any of the lower courts.

So far as we are concerned we deal with those questions that are immediately before us. If you deal with those things that have evidence, or where there is sufficient to warrant you in presenting indictments, then you do your duty, and so far as this court is concerned it sits to send up to you such matters as may come to it from other courts.

This court has done nothing more in respect to this subject, than to decide that Probate courts cannot have jurisdiction in criminal cases in this Territory, and this is a decision that was made by the other two judges. And I repeat to you that when you take into consideration the peace of this district, and such criminal matters as may be brought before you, and when you bring in bills, then your duties with this court are at end, and no imputations can rest upon you or the court afterward.

The importance of maintaining the public peace, the importance of bringing offenders to justice as well as to punish them for their guilt, and to deter others from the commission of like offences, appeals with sufficient force, I know, to every member of this grand jury, without my endeavoring to enforce it further.

What the District Attorney may have to present, and what you may have under consideration, this court cannot know, until it is brought before it officially.

It is not for me to assume the duties of public prosecutor, but it has been reported to me that this city has been the scene of murders, and that the murderers are going about independent of law—that the guilty are at large.

It will be your duty to institute the most rigid investigation into these cases, and to maintain the dignity and honor of the law against murder, rapine and robbery, and I sit here anxious to assist you, not anxious to administer punishment but to maintain the law.

Your duty you well know, that it takes twelve of you to make a presentment, and when you wish to make any, or to receive any instruction, you will come into court.

You will meet upon your own adjournments, and I need not say anything about dispatch, for you all know the necessity and importance of it. You may retire.

The judge gave notice to the attorneys that after recess he would commence the reading of the criminal docket, and also informed the bar that it was his intention to meet each day at 9 o'clock in the morning.

Court took a recess till half past 2.

2 1-2 p.m.

The court inquired if the attorneys were ready to go to trial in the case of the people vs. Thomas Colbourn.

Mr. Wilson wished to have the case disposed of this week as one material witness, viz.: Capt. Hooper, was about to leave for the States. Some further remarks transpired, and the court set the case for to-morrow at 11 o'clock.

Mr. Williams said that the defense was ready for trial in the case of the people vs. Henry E. Phelps and Henry Spiers.

The judge said he was anxious for those men to have their trial, and that it was not his wish nor intention to keep parties in prison at the expense of the county; but desired to dispose of all the cases on the docket as fast as possible, and therefore set the case for to-morrow at 9 a.m., and also issued subpoenas for all witnesses in the case to be present in court at the hour set for the trial.

The trials of Gipson, Clark and Yoads, an Indian, were set for Friday, after which the judge said that he intended to dispose of the criminal docket before he took up any other cases, and he wished the members of the bar to aid him all in their power to dispatch business, for he was utterly tired of holding courts and of doing so little business.

Court adjourned till to-morrow morning at 9 o'clock.

THURSDAY, 9 a.m.

Court met pursuant to adjournment. The judge asked if the witnesses in the case of Phelps and Spiers were in court.

Mr. Stout said he understood that several witnesses could not be found, whereupon the court ordered an attachment to issue against the absent witnesses, and took a recess to await the service of said attachment. The return showed that two important witnesses were not to be found, viz.: Charles F. McCarty and Hopkins C. Pender.

Gen. Wilson did not feel safe to go to trial without those witnesses; to go to trial without them would be a complete farce, from the fact that the witnesses present knew nothing of the real robbery; their evidence was simply collateral; he therefore moved that the defendants be discharged upon their own recognizance until the next term of court.

T. S. Williams, Esq., on the part of defendants objected, and said that his clients had been held under recognizance for one year, and they now demanded a trial, or to be finally discharged.

Mr. Stout, for the prosecution, observed that Mr. McCarty, who was the party robbed, left the Territory immediately after the other trial, that being engaged in the mail service he was obliged to leave, and considered they had a right to a continuance.

Mr. Miner, counsel for defense, said that Mr. Spiers wanted to go to Ohio, and he therefore claimed his trial at this term of court.

The judge remarked that the parties had been once tried and convicted, but that the verdict had been set aside and a new trial awarded because of the misconduct of the jury, therefore the case now stands DE NOVO.

Mr. Williams asked the court to put Mr. Spiers upon his trial separately, saying that if the court waited for the prosecution to get all their witnesses that he might never get a trial, and did not consider that they had been rightly treated in the case, and to him it appeared that there were some latches and catches connected with the prosecution which ought not to be. If his clients had committed an offence they wanted to have it proven and go to prison to serve out their time, and get rid of the affair.

Mr. Wilson desired to repel those insinuations thrown out by the counsel for the defense, and he would therefore make a plain statement of the history of the case, the particulars of which are well known to our readers.

His honor said that it had been decided that the granting of a new trial did not entitle the parties to a discharge until the third term of court subsequent, and hence he required them to be bound in the sum of \$500 each to appear at the next regular term of the court.

Gen. Wilson called up the case of the colored man Colbourn, and the judge ordered him to be brought into court at 1-2 past 1 o'clock, to which time the court took a recess.

1 1-2 p.m.

Court resumed its session, and proceeded to impanel a jury to try Thomas Colbourn, which resulted as follows:

Jacob Weller, taken.  
John Reese, taken.  
Isaac Bowman, had formed an opinion.  
Dustin Amy, excused by the court on account of deafness.  
Lewis Robison, taken.  
Joseph Woodmansee, challenged peremptorily by the defense.  
George Boyd, taken.  
Thomas Frazier, taken.  
John Taylor, taken.  
Charles Harrison, excused by the court because of deafness.  
Richard R. Pettit, taken.  
Robert Pearce, taken.  
Hezekiah Thatcher, taken.  
William G. Perkins, challenged peremptorily by defense.  
Clark A. Huntington, taken.  
William H. Smith, taken.  
Alonzo S. Blair, taken.

The District Attorney opened the case to the jury, and Major Blair presented the case for the defense.

William H. Hooper, Dr. William France and Elias H. Perry were examined for the prosecution, but during the examination of the first named witness, Messrs. Stout and Blair objected to his giving as evidence what he heard Shep, his negro, say about the shooting.

Mr. Wilson contended that in a case of this kind it was perfectly legitimate to bring out all such testimony.

Court ruled that the testimony was not admissible.

The prosecution closed, and the defense introduced William Woodland who testified to having seen Shep draw a revolver on Tom and threaten to shoot him in March last, and also that if he could not kill him then he would at some other time. Defense also introduced a negro who testified relative to the quarrelsome relations of the negroes at the time of the killing.

The jury were then addressed by Gen. Wilson for the prosecution, and Messrs. Stout and Blair for the defense. The court instructed the jury in the law, after which they retired, and in one hour returned into court with the following verdict:

We, the jury, find Thomas Colbourn guilty of manslaughter, and assess the term of his imprisonment at one year at hard labor in the penitentiary, and fine him one hundred dollars.

Court remanded the prisoner to await his sentence, and then adjourned till to-morrow morning at 10 o'clock.

FRIDAY, 10 a.m.

Court met pursuant to adjournment. Francis Pope, a colored man, was fined \$20 for contempt of court on yesterday, in not appearing as a witness in the case of the negro Colbourn.

Case of Deloss Melvin Gipson was called, and Mr. Ferguson filed a plea of having been once tried.

Mr. Stout considered that the court could not take any cognizance of a previous trial before the Probate court.

Gen. Wilson called for the arraignment of the prisoner. Mr. Ferguson asked for a continuance till Monday.

The judge said that he would like the question of the jurisdiction of Probate courts so presented in this case that it might be taken up to the highest tribunal, then if he decided wrong in saying that the Probate courts have no criminal jurisdiction, it could be altered and set right, though, his honor continued, I am perfectly convinced that the Organic Act of the Territory never was intended to confer criminal jurisdiction on Probate courts.

After some further remarks by counsel the court continued the case until to-morrow morning.

Myron Brewer, who was indicted by the grand jury at their last sitting, as accessory before the fact in the well known forgery case, was arrested and brought into court. He was admitted to bail in the penal sum of \$3000; William A. Hickman and Parmenio A. Jackman being his sureties.

Court took a recess till 2 o'clock.

2 P.M.

Yo-oge, an Indian, was arraigned, charged with stealing a mule.

Mr. Ferguson filed a plea in abatement, which was overruled by the court.

The following gentlemen were impaneled and sworn to try the case.

Jacob Weller,	Isaac Bowman,
Lewis Robison,	Joseph Woodmansee,
John Taylor,	Thomas Frazier,
Robert Pierce,	Richard R. Pettit,
Elsha Grinard,	Alonzo S. Blair,
Jacob Houtz,	Nelson A. Empey,

H. Stout, Esq., opened the case for the prosecution, and Mr. Ferguson for the defense.

Marshal Hunt, P. A. Jackman, Dr. Clinton and Thos. S. Williams were examined as witnesses for the prosecution; after which, by agreement of parties, the case was submitted to the jury without argument, who retired in charge of the Marshal.

At a quarter past 5 o'clock, the jury came into court and rendered a verdict of GUILTY and assessed the punishment of prisoner at one year in the penitentiary at hard labor.

The prisoner was remanded for sentence, but when looked for by the marshal, he could not be found. Court adjourned till to-morrow at 9 o'clock a.m.

SATURDAY, 9 a.m.

Court met as per adjournment.

Hosea Stout, Esq., having been appointed deputy prosecuting attorney, came forward and was sworn.

Court appointed Curtis E. Bolton, Esq., clerk of the court in place of David A. Burr, resigned.

Yo-oge, the Indian convict who made his escape last evening, was brought into court, having been arrested at 3 o'clock this morning, at Union, for an assault with intent to kill. \$60.30 was found on his person, a revolver and butcher knife, and in his possession was found a horse, the property of Marshal Dotson.

Judge Sinclair ordered the prisoner to stand up and pronounced sentence upon him in accordance with the verdict of the jury, with the addition of the cost of suit.

In speaking of the sentence to "hard labor," as required by statutory provision, His Honor remarked—I think if your legislators would institute some workshops and set these prisoners to earn their own living, in place of letting them stay there at the expense of the Territory, it would be a very good thing.

John Wade was arraigned on an indictment for stealing a mule; Messrs. Blair and Williams appeared for the prisoner.

Court proceeded to impanel a jury, which resulted as follows:—

John Reese, Jacob Weller, Isaac Bowman, and Lewis Robison, were challenged peremptorily by the defense; Joseph Woodmansee, Thomas Frazier, John Taylor, and Richard R. Pettit, accepted; Robert Pearce, challenged by defense; Hezekiah Hatch, Alonzo S. Blair, Joel J. Terrel, Elsha Grinard, Charles Woodmansee, Nelson A. Empey, James Imly, and Orrin Jeffords, accepted.

Messrs. Stout and Blair presented the case to the jury; after which Marshal Hunt, P. A. Jackman, Jeter Clinton and Samuel Snider were sworn and examined on the part of the prosecution, and cross-examined by the defense.

The jury were addressed by the attorneys on both sides and instructed in the law by the court. They retired and in about 20 minutes, returned into court with the following verdict:—

We, the jury, find the prisoner, John Wade, guilty as charged in the first count of the indictment against him and assess the penalty at one year in the penitentiary at hard labor.

The judge remanded the prisoner to jail to await the sentence of the court.

Mr. Williams filed a motion for a new trial, which was overruled by the court.

At a quarter to 4, the court took a recess for one hour.

4:45 P.M.

Moses alias Charlie Clark was brought into court and arraigned for stealing a mule, the property of Daniel Spencer, and the jury impaneled to try the case consisted of:—

Jacob Weller,	Lewis Robison,
Isaac Bowman,	Thomas Frazier,
John Taylor,	Alonzo A. Blair,
Richard R. Pettit,	Elsha Grinard,
Robert Pierce,	Nelson A. Empey,
Hezekiah Hatch,	Joel J. Terrel,

John Pea and Thomas Reeder were sworn and examined for the prosecution, cross-examined by the prisoner. Clark having no counsel, the case was submitted to the jury without argument.

The jury returned into court at 5 minutes to 6 o'clock, returning a verdict of guilty, and the penalty of three years hard labor in the penitentiary.

The prisoner was remanded to jail to await his sentence.

Thomas Frazier was excused from further attendance upon the court as a juror.

Court adjourned till Monday at 10 a.m.

MONDAY, 10 a.m.

Court met pursuant to adjournment.

John M. Moody filed a petition for an injunction in the case of Bradford Leonard, vs. W. L. Jolly, John Goastud and John M. Moody.

Myron Brewer filed an affidavit to the effect that he could not safely go to trial at this term of court, on account of certain material witnesses being absent, whereupon Parmenio A. Jackman and himself were bound in the penal sum of \$3000 for his appearance at the next term of court.

Hosea Stout Esq. filed an affidavit, in which he stated that he could not safely go to trial in the case of Deloss Gipson, without John Martin Luce and Nephi Packer, who had for some cause unknown to the prosecution, gone without the process of this court; whereupon the judge ordered the case to be continued until the next term of court.

Thomas Colbourn, John Wade and Moses Clark were brought into court and the judge pronounced sentence upon them, agreeably to the verdict of the jury, in their respective cases.

Grand jury came into court and presented two bills of indictment.

Court took a recess till 2 o'clock.

2 p.m.

Court resumed its session, and immediately thereafter adjourned till to-morrow at 10 a.m.

TUESDAY, 10 a.m.

The case of the people vs. Thomas H. Ferguson, indicted yesterday by the grand jury for the murder of Alexander Carpenter, was called and the judge ordered the prisoner brought into court.

The prisoner was brought in, arraigned and plead not guilty.

Messrs. Hickman & Williams appeared for the defense and wished to file a motion to quash the indictment, but were informed by the court that it was too late after the arraignment. Mr. Williams then asked for a continuance to get witnesses for the defense.

The district attorney opposed the granting of a continuance.

His honor said, that in order to save time, he would give the defense one hour in which to file their affidavit respecting their inability to go to trial.

Court took a recess till half past 12.

1-2 past 12.

Court resumed its session, and the names of the witnesses for the prosecution called, all present except Marshal Hunt.

Counsel for the defense filed an affidavit in which they stated that they could not safely go to trial without Marshal Hunt and Charles Crandall.

Court issued an attachment against Marshal Hunt, returnable forthwith, and ordered all parties who were under the process of the court not to leave the court house.

Marshal Hunt was arrested and brought into court, and after being examined by the judge relative to his having disobeyed the process of the court, was fined \$50 for contempt, the amount to be paid into the territorial treasury, and his honor committed him to jail till the fine was paid. The judge expressed his determination to have all the witnesses brought within the process of the court if he had to summon the whole city to do it.

The witnesses for the prosecution were held in their own recognizances till to-morrow morning.

The judge said: In all civil cases where answers were not filed by the 12th of September, judgment will be entered nili dicti.

Grand jury came into court and reported that they had no further business before them, whereupon they were discharged from further attendance upon the court.

Court adjourned till to-morrow at 9 a.m.

**THE ZEALOUS CHAPLAIN.**—Parson Le G—, many years ago, carried on his ministrations at P—. Experience had made him aware of the fact that soldiers usually formed a listless congregation. To keep them awake he essayed every means to ensure success. Orderly sergeants paced the aisles of the chapel to assist him in this pious duty; and when, by any chance, sleepers escaped their notice, the parson himself pointed out the aggressors to the perambulating functionaries. Even when reading the text he has broken off in the middle of an unfinished sentence to call attention to some tired red coat enjoying his somnolent nods and winks in a distant corner. On one occasion he had so mingled scripture with the intimation, that the ludicrous association gave rise to a short but irrepressible titter through the congregation. And who could wonder at it? for thus impressively read the chapter, "And Abraham said unto Lot"—(a pause, during which the parson pointed to a slumberer in a retired seat,) "sergeant, that man's asleep!"—[The Romance of the Ranks. By T. W. J. Connolly.]

A raftsmen who had drank a little too freely, fell from the raft and was drowning, when his brother seized him by the hair, but the current was strong, and the brother's strength being nearly exhausted, he was about relinquishing his hold, when despairing, the drowning one raised his head above the water, and said:

"Hang on, Sam, hang on—I'll treat, I swear I will."

His words were stimulating, and the other at length saved him.

A cubic inch of gold is worth one hundred and forty six dollars; a cubic foot, two hundred and fifty two thousand two hundred and eighty eight dollars; a cubic yard, six millions eight hundred and seventy six dollars. The quantity of gold now in existence is estimated to be three thousand millions of dollars, which, welded into one mass, could be contained in a cubic of twenty three feet.

**SOMETHING NEW.**—A man's wife lately died in New York, and upon exhumation of the body, not a trace of poison was found in it. This was regarded as a remarkable proof of the advancement of virtue and domestic happiness in that exemplary city.

**A QUESTION.**—An Ohio editor asks: "What can be more captivating than to see a beautiful woman, say about four feet eleven inches high, eleven feet four inches in diameter, and thirty-four feet in circumference, passing along the aisle just as divine worship commences."

If you do when you are alone what you are unwilling to do in the presence of your acquaintances, you respect them more than you do yourself.

**CONUNDRUM.**—Boy—What's the use of an eclipse.

Astronomer—O, I don't know. It gives the sun time for reflection.